



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9375 OF 2023

Rakesh Arvind Sugandhi.

...Petitioner.

Versus

Yashshree Rakesh Sugandhi.

...Respondent.

*Mr. Sarwadnya S. Kadtane, Mr. Anand Waradkar and Mr. Akash Kotecha for the
Petitioner.*

Ms. Suvarna Yadav for the Respondent.

Coram : Sharmila U. Deshmukh, J.

Date : April 2, 2024.

P. C. :

1. Heard.

2. By this petition, challenge is to the order dated 20th April 2023 passed by the Civil Judge, Senior Division, Panvel in Marriage Petition No.514 of 2022. By the said order, the trial Court has allowed the application filed by the Respondent-wife under section 24 of the Hindu Marriage Act, 1955 and has directed the Petitioner to pay EMIs of the flat, i.e., Flat No. Q-201, Jalvayu Vihar Phase-II, Kharghar, Navi Mumbai, where the Respondent wife is residing, to pay maintenance and the electricity bills in respect of the said flat. In addition, the Petitioner is directed to pay the educational expenses of minor child

Shanay and to pay a sum of Rs.20,000/- as litigation expenses to the Respondent – wife, to pay interim maintenance of Rs.20,000/- to the wife and Rs.10,000/- to the child and to return Baleno Car to the wife and not to create any third party rights in respect of the premises, namely, Flat No.Q-201, Jalvayu Vihar Phase-II, Kharghar, Navi Mumbai.

3. Learned counsel appearing for the Petitioner would submit that at the time when the order was passed, i.e., June 2022 to September 2023, the Petitioner was unemployed, however, prior to that he was working as consultant in Voice Connect company and earning a salary of Rs.1,30,000/- per month. Pointing to the affidavit of assets and liabilities, he would submit that the said fact was stated in the affidavit and it was also pointed out that he was unemployed for the past 5 to 6 months and looking for the job and savings have been utilised to manage the fixed expenses. He submits that the admitted position is that the wife is working and despite thereof, the Court has directed a sum of Rs.20,000/- to be paid to her as interim maintenance. He submits that the EMI of the flat is Rs.55,000/- and he is also being burdened with the payment of outgoings of the said flat as well as the electricity bill in which the Respondent is residing. He submits that even considering his earlier income of Rs.1,30,000/-, the said amount is excessive.

4. *Per contra* learned counsel appearing for the Respondent – wife submits that income of the Respondent-wife of Rs.18,000/- is not sufficient for her sustenance. She submits that the said order being a well reasoned order need not be interfered with.

5. Considered the submissions and perused the record.

6. The trial Court has considered that the Respondent – wife was earning a sum of Rs.18,000/- per month and the Respondent – wife’s contention that the Petitioner is an M.B.A. and earning salary of Rs.5 lakh per month. The trial Court considered that the Petitioner is owner of seven immovable properties and the sum of Rs.18,000/- is not sufficient for Respondent’s maintenance. The trial Court disbelieved that from June 2022, the Petitioner was unemployed as due to a typographical error in the pleadings, the month of “June 2022” was written as “June 2023”. The trial Court considered that by reason of having 5 immovable properties in a big city, it is quite possible that the Petitioner is earning monthly income of Rs.5 lakh and based on the said assessment, trial Court has granted the interim maintenance and other reliefs as stated above.

7. The fact remains that even in his Affidavit of Assets and Liabilities, the Petitioner has stated that in the past he was working as

consultant and for past 5-6 months he is searching for a job. Even if it is considered that the earlier income of the Petitioner husband is about Rs.1,30,000/- per month, the EMI of flat comes to Rs.55,000/- and in addition to that, the Petitioner has to bear the educational expenses of the minor child and also to pay a sum of Rs.10,000/- for the maintenance of the minor child. As the Respondent is residing in the said premises and is also having independent earning, it is for the Respondent to pay the electricity bill as the usage of electricity is by the Respondent. I see no justification to foist the liability of electricity bill on the Petitioner-husband, who is not residing in the said flat.

8. Considering that in the application, the Respondent-wife has sought return of vehicle-car, it can be presumed that the Respondent – wife has income sufficient enough for her to maintain a four wheeler car. That being so, considering the fact that a sum of Rs.18,000/- per month is being earned by the Respondent – wife, a sum of Rs.20,000/- granted as maintenance to her, under section 24 of the Hindu Marriage Act, 1955 needs to be quashed and set aside. The purpose of grant of interim maintenance under section 24 of the Hindu Marriage Act, 1955 is to ensure that the party has sufficient funds for his/her substance and also to fund the litigation expenses.

9. In the present case, as all the expenses as regards the residence

as well as the sustenance of child which includes the educational expenses are being taken care of by the Petitioner-husband, the monthly income of Rs.18,000/- earned by the Respondent-wife is sufficient for her own sustenance during the pendency of the proceedings. It is only after the evidence has been led, it can be established that there is disparity between the incomes of the parties so as to entitle the Respondent wife for monthly maintenance from the Petitioner husband.

10. In the light of above, order of the trial Court dated 20th April 2023 is modified. The interim maintenance of Rs.20,000/- granted to the Respondent-wife is hereby quashed and set aside. As also the direction to pay electricity bills in respect of Q-201, Jalvayu Vihar Phase-II, Kharghar, Navi Mumbai where the Respondent-wife is residing is hereby quashed and set aside. Rest of the order stands undisturbed.

11. Petition stands allowed in above terms.

[Sharmila U. Deshmukh, J.]